

participants, to reduce health benefit or health benefit premium costs for the sponsor, or to reduce any combination of these costs;

(ii) What procedures or programs the sponsor has in place that have generated or have the potential to generate cost savings with respect to plan participants with chronic and high-cost conditions; and

(iii) How the sponsor will use the reimbursement to maintain its level of contribution to the applicable plan.

(6) Projected amount of reimbursement to be received under the program for the first two plan year cycles with specific amounts for each of the two cycles.

(7) A list of all benefit options under the employment-based plan that any early retiree for whom the sponsor receives program reimbursement may be claimed.

(8) Any other information the Secretary requires.

(g) An application must be approved, and the plan and the sponsor certified, by the Secretary before a sponsor may request reimbursement under the program.

(h) The Secretary may reopen a determination under which an application had been approved or denied:

(1) Within 1 year of the determination for any reason;

(2) Within 4 years of the determination if the evidence that was considered in making the determination shows on its face that an error was made; or

(3) At any time in instances of fraud or similar fault.

§ 149.41 Consequences of Non-Compliance, Fraud, or Similar Fault.

Upon failure to comply with the requirements of this part, or if fraud, waste, and abuse, or similar fault are found, the Secretary may recoup or withhold funds, terminate or deny a sponsor's application, or take a combination of these actions.

§ 149.45 Funding limitation.

(a) Based on the projected or actual availability of program funding, the Secretary may deny applications that otherwise meet the requirements of this part, and if an application is ap-

proved, may deny all or part of a sponsor's reimbursement request.

(b) The Secretary's decision to stop accepting applications or satisfying reimbursement requests based on the availability of funding is final and binding, and is not appealable.

Subpart C—Reinsurance Amounts

§ 149.100 Amount of reimbursement.

(a) For each early retiree enrolled in a certified plan in a plan year, the sponsor receives reimbursement in the amount of 80 percent of the costs for health benefits (net of negotiated price concessions for health benefits) for claims incurred during the plan year that are attributed to health benefits costs between the cost threshold and cost limit, and that are paid by the employment-based plan or by the insurer (if an insured plan), and by the early retiree.

(b) Costs are considered paid by an early retiree, if paid by that individual or another person on behalf of the early retiree, and the early retiree (or person paying on behalf of the early retiree) is not reimbursed through insurance or otherwise, or other third party payment arrangement.

(c) Reimbursement is calculated by first determining the costs for health benefits net of negotiated price concessions, within the applicable plan year for each early retiree, and then subtracting amounts below the cost threshold and above the cost limit within the applicable plan year for each such individual.

(d) For purposes of determining amounts below the cost threshold and above the cost limit for any given early retiree, all costs for health benefits paid by the employment-based plan (or by the insurer, if applicable), or by or on behalf of, an early retiree, for all benefit options the early retiree is enrolled in with respect to a given certified employment-based plan for a given plan year, will be combined. For each early retiree enrolled in an employment-based plan, there is only one cost threshold and one cost limit per plan year regardless of the number of benefit options the early retiree is enrolled in during that plan year.